



**City Council**  
311 Vernon Street  
Roseville, California 95678

November 14, 2018

**VIA ELECTRONIC FILING**

Chairman Ajit Pai  
Commissioner Michael O’Rielly  
Commissioner Brendan Carr  
Commissioner Jessica Rosenworcel  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**RE: MB Docket No. 05-311. Second Further Notice of Proposed Rulemaking. Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992.**

Honorable Chairman Pai and Commissioners O’Rielly, Carr, and Rosenworcel:

As the Mayor of the City of Roseville, California, I am writing to express our strong opposition to the Further Notice of Proposed Rulemaking (FNPRM), which proposes to allow cable companies to deduct the fair market value for a wide range of public benefits from their franchise fee obligations, namely public, educational, and government (PEG) channel capacity and transmission.

In 2006, California passed the Digital Infrastructure and Video Competition Act, which streamlined the deployment of cable services by making the California Public Utilities Commission (CPUC) the sole franchising authority in the state and preserved many of the provisions commonly found in local franchise ordinances. It was the intent of the state legislature to streamline deployment while keeping local government revenues intact, ensuring that local public rights-of-way remained under control of cities and counties, and that a sufficient amount of capacity on cable networks was preserved for public, educational, and government (PEG) access channels.

Unfortunately, while the FCC would normally exempt from their Orders states with a centralized franchising authority that have preserved such policies, this FNPRM provides no such exemption, threatening to undermine such priorities. As proposed, the FNPRMs broad definition of all “cable-related, in-kind contributions” other than PEG capital costs and build out requirements could be treated as “franchise fees,” meaning:

- Cable operators currently paying the typical five percent franchise fee permitted by federal law will be able to reduce their current franchise fee payment by the fair market value of all in-kind contributions, with the exception of PEG capital costs required by

the franchise associated with the construction of PEG access facilities and build out requirements.

- There will be significant reductions in cable franchise fees, depending on how the “fair market” value for PEG capacity and transmission is calculated within any given jurisdiction.
- PEG programming would be severely limited, if not altogether eliminated in some or most jurisdictions.

PEG programming offers a host of community benefits, including public access channels, educational access channels, and government access channels all aimed at providing locally beneficial information. Public access channels are available for use by the general public, usually created by a diverse variety of individuals, groups, and organizations within a community that is non-commercial in nature and generally free from editorial oversight. Educational channels are typically dedicated for learning institutions, such as local schools, colleges, and/or universities for school related activities, fully televised courses of instruction, and other educational purposes. Government access channels are often the easiest and best ways for the local governments to be transparent, often televising city, county, school district, and other government meetings or live local election returns, town hall meetings, public debates, and other public policy topics.

In fact, in the City of Roseville PEG funding has been utilized to help pay for live and archived broadcasts of all Council, board and commission meetings; and equipment used in the production of educational and informational videos about municipal budget issues and city services that encourage and inform public participation in local government. This information is shared on the air and online. The loss of this funding would cripple transparency by severely limiting the city’s ability to broadcast all of its City Council, board and commission meetings, which use equipment funded by PEG funds. The public highly values the live and archived broadcasts online and on the air.

Facing expenses that continue to increase faster than revenues, the City of Roseville has been reducing positions and service levels for the past 10 years. This includes cutting funding for its broadcast staffing by 75% in that time. The availability of PEG funding has allowed the city to broadcast meetings and produce videos to provide a stronger democratic process of transparency and engagement. Elimination of PEG funding will limit or eliminate the service.

The “fair market value” of such services may be impossible to discern and would likely be a source of litigation between cable operators and local governments. Most regrettably, however, is that this FNPRM threatens to limit or eliminate public, educational, and government access channels all meant to better help inform and empower the public. The potential loss of this public benefit alone should be concerning enough for the FCC to reject this FNPRM. Unfortunately, the FNPRM further threatens the use of local right of ways for non-cable related purposes as well.

The FNPRM also proposes to prohibit local governments from regulating the facilities and equipment used by cable operators in the provision of non-cable services, such as wireless communications services. If preempted from regulating these installations outside the franchise (since these franchises do not generally address the use of rights of way for non-cable facilities), local governments may lose their authority to manage a cable company’s

deployment of non-cable facilities, such as “small cells.” This preemption would threaten to extend to fees for use of the rights of way, meaning:

- Cable companies can use local rights of way for any purpose, regardless of the terms of the franchise, and avoid having to pay fair compensation to the local government for the use of publicly funded assets in the rights of way.
- Cable companies could potentially install “small wireless facilities” with little to no public input, without having to meet any aesthetic or equipment size requirements aimed to mitigate blight and preserve community character.
- Cable companies would gain a significant advantage against their competitors, including telecommunications providers even though the FCC has just adopted an order lowering their deployment standards, resulting in a race-to-the-bottom deployment strategy for both cable and telecommunications companies.

Fair and appropriate use of the public right-of-way is the fundamental policy principle for the imposition of a cable franchise fee and any other reasonable conditions required to preserve the character of each community. While the cable and telecommunications industry continues to attack the responsibility of local governments to protect the public health and safety of their own communities, our residents stand to lose the most in terms of the public benefits they receive and the input they can provide for facilities installed in their own backyards. The FCC should instead consider ways that cable operators can: improve their services, help close digital divides, and expand deployment to rural and lower income communities. Unfortunately, this FNPRM continues a recent pattern of lowering standards and public responsibility for the communications industry as a whole.

For these reasons, the City of Roseville **opposes** the FNPRM and respectfully urges the FCC to reject the deterioration of PEG services and fair use of the public right-of-way. ***At the very least, the FCC should exempt from the FNPRM states such as California with a centralized franchising statutory scheme.***

If you have any questions or need any additional information, please contact Mark Wolinski, Government Relations Administrator at (916) 774-5179 or Email: [mwolinski@roseville.ca.us](mailto:mwolinski@roseville.ca.us).

Sincerely,



Susan Rohan,  
Mayor

cc: The Honorable Dianne Feinstein  
The Honorable Kamala Harris  
The Honorable Tom McClintock  
Charles Anderson, League of California Cities, [canderson@cacities.org](mailto:canderson@cacities.org)  
LoCC City Letters, [cityletters@cacities.org](mailto:cityletters@cacities.org)  
Mike Miller, The Ferguson Group

